IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SUO-MOTU CONTEMPT PETITION NO. 236 OF 1996.
IN
WRIT PETITION NO. 6441 OF 1995.

Suresh G.Bakare and others. ... Petitioners.
Versus.
The State of Maharashtra & others. ... Respondents.

Shri R.A.Malandkar for the Petitioners.

Shri C.R.Sonawane, A.G.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 14th March, 2007.

P.C.:

1. I have heard Shri Malandkar who is appearing as amicus-curie to assist the Court. I have heard Shri C.R.Sonawane, learned Assistant Government Pleader appearing for the Respondents Nos.1 to 3.

2. In Writ Petition No.4406 of 1993, a Division Bench of this court passed an order on 1st November 1993 directing the Respondents to take a decision on the objections filed by the petitioners to the draft statement under section 8(3) of the Urban Land (Ceiling and Regulation) Act, 1976 and to issue a final statement under section 8(4) of the said Act in accordance with law on or before 31st December 1993.

3. When Writ Petition No.6441 of 1995 filed by the Petitioners came up before the Division Bench of this Court on 15th July 1996, this Court noticed that the order dated 1st November 1993 passed in Writ Petition No.4406 of 1993 was not complied with. After recording a prima-facie finding that the Respondents are in contempt, this Court issued show-cause notice to the Respondents.

4. An affidavit-in-reply is filed by the Deputy Commissioner (Supply), Pune Division, Pune to this contempt petition. It is stated in paragraph 3 of the affidavit-in-reply that the order dated 1st November 1993 could not be complied with in view of the order of status-quo granted by the Apex Court in another Writ Petition. In paragraph 6 of the said affidavit, it is stated thus:

> "6. I say that there after the State Government had passed the Resolution No. ULC/1094/(5758)Part-II dated 01/10/1997, by which it has been declared that the lands falls in 5 K.M. out of Solapur Municipal Corporation limit as on 17/02/1976 that the provisions of the Urban Land Ceiling Act, 1976 are made not applicable. Hereto annexed and

marked as Exhibit "4" is the copy of the G.R. dated 01/10/1997 issued by the State Government."

In paragraph 7 of the said affidavit, it is stated that as the Petitioners' land falls in the 5 K.M. peripheral area of the limits of the Municipal Corporation of City of Solapur, provisions of the said Act of 1976 are not applicable. It is specifically stated that the lands of the Petitioners are excluded from the applicability of the provisions of the said Act of 1976 in view of Government Resolution dated 1st October 1997, which is annexed as Exhibit 4 to the said affidavit-in-reply. It is, therefore, stated that in view of the said Government Resolution, now the question of deciding the objections of the Petitioners in terms of the direction issued on 1st November 1993 does not survive.

5. The factual statements in the affidavit of Shri Arun Bhagwan Unhale, Deputy Commissioner (Supply), Pune Division, Pune are accepted. It is true that the order dated 1st November 1993 could not be complied with within the time stipulated by this Court. In view of the stand taken in the affidavit-in-reply, it is obvious that now the said order of the Division Bench need not be complied with in view of the fact that the provisions of the said Act of 1976 are not no longer applicable to

the land of the Petitioners. In view of the subsequent event, I am of the view that it is not necessary to take any action against the Respondents.

6. Hence the notice issued to the Respondents by order dated 15th July 1996 stands discharged. No order as to costs. Office will place Writ Petition No.6441 of 1997 before the appropriate Division Bench.

Judge.